

108TH CONGRESS
1ST SESSION

S. 1728

To amend the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001.

IN THE SENATE OF THE UNITED STATES

OCTOBER 14, 2003

Mr. SPECTER (for himself, Mr. ALLEN, Ms. SNOWE, Mrs. CLINTON, Mr. LEAHY, Mr. SCHUMER, Mr. COCHRAN, Mr. LAUTENBERG, Mrs. DOLE, Mr. BINGAMAN, Mr. MILLER, Mr. DASCHLE, and Mr. DORGAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Terrorism Victim Com-
 5 pensation Equity Act”.

6 **SEC. 2. REFERENCES.**

7 Except as otherwise expressly provided, wherever in
 8 this Act an amendment or repeal is expressed in terms
 9 of an amendment to, or repeal of, a section or other provi-
 10 sion, the reference shall be considered a reference to the
 11 September 11th Victim Compensation Fund of 2001
 12 (Public Law 107–42; 49 U.S.C. 40101 note).

13 **SEC. 3. COMPENSATION FOR VICTIMS OF TERRORIST ACTS.**

14 (a) DEFINITIONS.—Section 402(4) is amended by in-
 15 serting “, related to the bombings of United States embas-
 16 sies in East Africa on August 7, 1998, related to the at-
 17 tack on the U.S.S. Cole on October 12, 2000, or related
 18 to the attack on the World Trade Center on February 26,
 19 1993” before the period.

20 (b) PURPOSE.—Section 403 is amended by inserting
 21 “or killed as a result of the bombings of United States
 22 embassies in East Africa on August 7, 1998, the attack
 23 on the U.S.S. Cole on October 12, 2000, or the attack
 24 on the World Trade Center on February 26, 1993” before
 25 the period.

1 (c) DETERMINATION OF ELIGIBILITY FOR COM-
2 PENSATION.—

3 (1) CLAIM FORM CONTENTS.—Section
4 405(a)(2)(B) is amended—

5 (A) in clause (i), by inserting “, the bomb-
6 ings of United States embassies in East Africa
7 on August 7, 1998, the attack on the U.S.S.
8 Cole on October 12, 2000, or the attack on the
9 World Trade Center on February 26, 1993” be-
10 fore the semicolon;

11 (B) in clause (ii), by inserting “or bomb-
12 ings” before the semicolon; and

13 (C) in clause (iii), by inserting “or bomb-
14 ings” before the period.

15 (2) LIMITATION.—Section 405(a)(3) is amend-
16 ed by striking “2 years” and inserting “3 years”.

17 (3) COLLATERAL COMPENSATION.—Section
18 405(b)(6) is amended by inserting “, the bombings
19 of United States embassies in East Africa on August
20 7, 1998, the attack on the U.S.S. Cole on October
21 12, 2000, or the attack on the World Trade Center
22 on February 26, 1993” before the period.

23 (4) ELIGIBILITY.—

24 (A) INDIVIDUALS.—Section 405(c)(2)(A) is
25 amended—

(i) in clause (i), by inserting “, was present at the United States Embassy in Nairobi, Kenya, or the United States Embassy in Dar es Salaam, Tanzania, at the time, or in the immediate aftermath, of the bombings of United States embassies in East Africa on August 7, 1998, was on the U.S.S. Cole on October 12, 2000, or was present at the World Trade Center on February 26, 1993 at the time of the bombings of that building” before the semicolon; and

(ii) by striking clause (ii) and inserting the following:

“(ii) suffered death as a result of such an air crash or suffered death as a result of such a bombing;”.

(B) REQUIREMENTS.—Section 405(c)(3) is amended—

(i) in the heading for subparagraph (B) by inserting “RELATING TO SEPTEMBER 11TH TERRORIST ACTS” before the period; and

(ii) by adding at the end the following:

1 “(C) LIMITATION ON CIVIL ACTION RELAT-
2 ING TO OTHER TERRORIST ACTS.—

3 “(i) IN GENERAL.—Upon the submis-
4 sion of a claim under this title, the claim-
5 ant involved waives the right to file a civil
6 action (or to be a party to an action) in
7 any Federal or State court for damages
8 sustained by the claimant as a result of the
9 bombings of United States embassies in
10 East Africa on August 7, 1998, the attack
11 on the U.S.S. Cole on October 12, 2000,
12 or the attack on the World Trade Center
13 on February 26, 1993. The preceding sen-
14 tence does not apply to a civil action to re-
15 cover any collateral source obligation based
16 on contract, or to a civil action against any
17 person who is a knowing participant in any
18 conspiracy to commit any terrorist act.

19 “(ii) PENDING ACTIONS.—In the case
20 of an individual who is a party to a civil
21 action described in clause (i), such indi-
22 vidual may not submit a claim under this
23 title unless such individual withdraws from
24 such action by the date that is 90 days
25 after the date on which regulations are

1 promulgated under section 4 of the Ter-
2 rorism Victim Compensation Equity Act.

3 “(D) INDIVIDUALS WITH PRIOR COM-
4 PENSATION.—

5 “(i) IN GENERAL.—Subject to clause
6 (ii), an individual is not an eligible indi-
7 vidual for purposes of this subsection if the
8 individual, or the estate of that individual,
9 has received any compensation from a civil
10 action or settlement based on tort related
11 to the bombings of United States embas-
12 sies in East Africa on August 7, 1998, the
13 attack on the U.S.S. Cole on October 12,
14 2000, or the attack on the World Trade
15 Center on February 26, 1993.

16 “(ii) EXCEPTION.—Clause (i) shall
17 not apply to compensation received from a
18 civil action against any person who is a
19 knowing participant in any conspiracy to
20 commit any terrorist act.

21 “(E) VICTIMS OF BOMBINGS OF UNITED
22 STATES EMBASSIES IN EAST AFRICA.—An indi-
23 vidual who suffered death as a result of a
24 bombing or attack described in subparagraph
25 (C)(i) shall not be an eligible individual by rea-

1 son of that bombing or attack, unless that indi-
2 vidual is or was a United States citizen.”.

3 (C) INELIGIBILITY OF PARTICIPANTS AND
4 CONSPIRATORS.—Section 405(c) is amended by
5 adding at the end the following:

6 “(4) INELIGIBILITY OF PARTICIPANTS AND
7 CONSPIRATORS.—An individual, or a representative
8 of that individual, shall not be eligible to receive
9 compensation under this title if that individual is
10 identified by the Attorney General to have been a
11 participant or conspirator in the bombings of United
12 States embassies in East Africa on August 7, 1998,
13 the attack on the U.S.S. Cole on October 12, 2000,
14 or the attack on the World Trade Center on Feb-
15 ruary 26, 1993.”.

16 (D) ELIGIBILITY OF MEMBERS OF THE
17 UNIFORMED SERVICES.—Section 405(c) (as
18 amended by subparagraph (C)) is further
19 amended by adding at the end the following:

20 “(5) ELIGIBILITY OF MEMBERS OF THE UNI-
21 FORMED SERVICES.—An individual who is a member
22 of the uniformed services shall not be excluded from
23 being an eligible individual by reason of being such
24 a member.”.

1 **SEC. 4. REGULATIONS.**

2 Not later than 90 days after the date of enactment
3 of this Act, the Attorney General, in consultation with the
4 Special Master, shall promulgate regulations to carry out
5 the amendments made by this Act, including regulations
6 with respect to—

7 (1) forms to be used in submitting claims under
8 this Act;

9 (2) the information to be included in such
10 forms;

11 (3) procedures for hearing and the presentation
12 of evidence;

13 (4) procedures to assist an individual in filing
14 and pursuing claims under this Act; and

15 (5) other matters determined appropriate by
16 the Attorney General.

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